

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

LISA ANNE GRUHOT
TX-1336162-R

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DOCKETED COMPLAINT NO.
09-030 & 09-166

FINAL ORDER

On this 11 day of Dec, 2009, the Board considered the above-noted matter.

After proper notice was given, the above case was heard by an Administrative Law Judge (ALJ) at the State Office of Administrative Hearings (SOAH). The ALJ made and filed a proposal for decision containing findings of fact and conclusions of law. The proposal for decision was properly served on all parties, who were given an opportunity to file exceptions and replies as part of the administrative record. No such exceptions or replies were filed.

The Texas Appraiser Licensing and Certification Board, after review and due consideration of the proposal for decision, attached as Exhibit A hereto, adopts the findings of fact and conclusions of law of the ALJ contained in the proposal for decision and incorporates those findings of fact and conclusions of law into this Final Order as if such were fully set out and separately stated in this Final Order. All proposed findings of fact and conclusions of law submitted by any party that are not specifically adopted in this Final Order are denied.

NOW, THEREFORE, IT IS ORDERED by the Texas Appraiser Licensing and Certification Board that the certification of Lisa Anne Gruhot in this matter is hereby **REVOKED**, effective twenty days after the date Lisa Anne Gruhot is notified of this Final Order.

If enforcement of this Final Order is restrained or enjoined by an order of a court, this order shall become effective upon a final determination by said court or appellate court in favor of the Texas Appraiser Licensing and Certification Board.

Approved by the Board and Signed this 11 day of Dec, 2009.



Clinton P. Sayers, Chairperson
Texas Appraiser Licensing and Certification Board

EXHIBIT A

State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge

October 22, 2009

RECEIVED

OCT 23 2009

Texas Real Estate Commission

INTER-AGENCY

Douglas E. Oldmixon
Administrator
Texas Appraiser Licensing and Certification Board
1101 Camino La Costa
Austin, Texas 78752

RE: Docket No. 329-09-4969.ALC; Texas Appraiser Licensing and Certification Board,
Petitioner v. Lisa A. Gruhot, Respondent

Dear Mr. Oldmixon:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with 1 TEX. ADMIN. CODE § 155.507(c), a SOAH rule which may be found at www.soah.state.tx.us.

Sincerely,

A handwritten signature in cursive script, reading "Steven D. Arnold".

Steven D. Arnold
Administrative Law Judge

SDA/sb
Enclosure

xc: Troy Beaulieu, Staff Attorney, Texas Appraiser Licensing and Certification Board, 1101 Camino La Costa, Austin, TX 78752 (with Hearing CD and Certified Evidentiary Record) – VIA INTER-AGENCY
Lisa Ann Gruhot, 121 Orange Grove Drive, Harlingen, TX 78550 - VIA REGULAR MAIL

SOAH DOCKET NO. 329-09-4969.ALC

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD,
Petitioner

v.

LISA A. GRUHOT,
Respondent

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

Staff of the Texas Appraiser Licensing and Certification Board¹ (Staff/Board) brought action against Lisa A. Gruhot (Respondent) to revoke her real estate appraiser license. Staff alleges that Respondent violated the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE ANN. ch. 1103, and the Board's rules when she failed to answer inquiries and provide certain documents related to a complaint against her within 20 days of written notice to her; violated 22 TEX. ADMIN. CODE §§153.20(a)(3) and 155.1(a) and TEX. OCC. CODE §1103.405 by failing to comply with the Uniform Standards of Professional Appraisal Practice (USPAP) in effect at the time of her appraisal of property located at 2900 San Efrain, Mission, Texas 78752 (San Efrain Property); and violated 22 TEX. ADMIN. CODE §153.20(a)(9) by making material misrepresentations and omissions of facts in her appraisal of the San Efrain Property. Despite being sent proper notice of the hearing and charges against her, Respondent did not appear and was not represented at the hearing. The Administrative Law Judge (ALJ) agrees with Staff's recommendation to revoke Respondent's license.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

The hearing convened September 21, 2009, before ALJ Steven D. Arnold at the State Office of Administrative Hearings (SOAH), William P. Clements Building, 300 West 15th Street, Fourth Floor, Austin, Texas. Staff was represented by Troy Beaulieu, Staff Attorney, who moved for a default based on Respondent's failure to appear.

¹ The Texas Appraiser Licensing and Certification Board is an independent subdivision of the Texas Real Estate Commission. TEX. OCC. CODE §1103.051.

Staff offered competent evidence establishing jurisdiction and notice. Those matters are set out in the Findings of Fact and Conclusions of Law without further discussion.

II. RECOMMENDATION

In accordance with 1 TEX. ADMIN. CODE §155.501, the ALJ granted Staff's motion for default and deemed the facts set forth in the Statement of Charges, incorporated into the Notice of Hearing, as admitted. Based on the established violation and evidence of appropriate sanction for that violation, the ALJ recommends that Respondent's license be revoked.

III. FINDINGS OF FACT

1. Lisa A. Gruhot (Respondent) holds Texas Real Property Appraiser license number TX-1336162-R, issued by the Texas Appraiser Licensing and Certification Board (Board).
2. Respondent's last known address of record on file with the Board is 121 Orange Grove Drive, Harlingen, Texas 78550.
3. On October 27, 2008, and April 29, 2009, the Board notified Respondent of complaint numbers 09-030 and 09-166, provided her with the opportunity to respond to the allegations, and requested that Respondent provide certain documentation to the Board.
4. Despite the notice and request for documentation, no response was ever received from Respondent with respect to complaint number 09-166.
5. With respect to the appraisal conducted by Respondent on the property located at 2900 San Efrain, Mission, Texas 78752 (San Efrain Property):
 - (a) Respondent signed a certification that falsely states that she performed a complete visual inspection of the interior and exterior areas of the property even though she did not do so contrary to Uniform Standards of Professional Appraisal Practice (USPAP) Ethics Rule (conduct provisions);
 - (b) Respondent created portions of her work file after the complaint was filed with the Board, even though she was required to gather her work file documentation during preparation of the San Efrain Property appraisal report and keep and maintain this work file thereafter contrary to USPAP Ethics Rule (record keeping and conduct provisions);
 - (c) Respondent misrepresented the San Efrain Property's zoning classification contrary to USPAP Standards 1-2(e)(iv) and 2-2(b)(viii);


- (d) Respondent failed to provide a brief summary of her supporting rationale for her determination of the San Efrain Property's highest and best use contrary to USPAP Standards 1-3(b) and 2-2(b)(ix);
 - (e) Respondent failed to provide any support for her report or work file for her determination of the San Efrain Property's site valuation contrary to USPAP Standards 1-4(b)(i) and 2-2(b)(viii);
 - (f) Respondent failed to analyze the agreement of sale for the San Efrain property contrary to USPAP Standards 1-5(a) and 2-2(b)(viii); and
 - (g) Respondent produced an intentionally misleading appraisal report for the San Efrain Property contrary to USPAP Standard 2-1(a).
6. Respondent made material misrepresentations and omissions of material facts in her appraisal of the San Efrain property by misrepresenting that she personally inspected the exterior and interior of the San Efrain Property; misrepresenting the nature and extent of her work file; misrepresenting the San Efrain Property's zoning classification; omitting any discussion of her underlying rationale for her highest and best use determination; and omitting any support for her site value determination.
 7. On June 23, 2009, staff of the Board (Staff) sent its "Original Statement of Charges" to Respondent at the same address referenced in Finding of Fact No. 2, by certified mail, return receipt requested.
 8. On July 22, 2009, Staff mailed its notice of administrative hearing, including and incorporating by reference the Original Statement of Charges and Request to Docket Case, to Respondent at the same address, by certified mail, return receipt requested.
 9. The notice of hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short, plain statement of the matters asserted.
 10. The notice of hearing contained the following language in capital letters in at least 12-point boldface type: "Failure to appear at hearing will result in the original statement of charges being admitted as true, the relief sought by TALCB granted, and a default judgment being taken against you."
 11. The hearing on the merits was convened on September 21, 2009, at 9:00 a.m. at the State Office of Administrative Hearings, William P. Clements Building, 300 West 15th Street, Austin, Texas.
 12. Staff appeared at the hearing through Staff Attorney Troy Beaulieu. Respondent did not appear and was not represented at the hearing.

13. Staff's motion for a default was granted.

IV. CONCLUSIONS OF LAW

1. The Texas Appraiser Licensing and Certification Board (Board) has jurisdiction over this matter. TEX. OCC. CODE ANN. ch. 1103.
2. The State Office of Administrative Hearings has jurisdiction over all matters related to conducting a contested case in this matter, including the preparation of a Proposal for Decision with proposed Findings of Fact and Conclusions of Law. TEX. OCC. CODE ANN. ch. 1103.508; TEX GOV'T CODE ANN. ch. 2003.
3. Respondent received proper and timely notice of hearing as required by TEX GOV'T CODE ANN. §§2001.051 and 2001.052, TEX. OCC. CODE §1103.502, and 22 TEX. ADMIN. CODE (TAC) §157.9(b).
4. The allegations stated in the Findings of Fact are deemed admitted, pursuant to 1 TAC §155.501.
5. Based on the above Findings of Fact, Respondent violated 22 TEX. ADMIN. CODE ANN. §§153.20(a)(2) and 153.22 when she failed to answer inquiries and provide certain documents related to a complaint against her within 20 days of written notice to her; violated 22 TEX. ADMIN. CODE §§153.20(a)(3) and 155.1(a) and TEX. OCC. CODE §1103.405 by failing to comply with the USPAP in effect at the time of her appraisal of the San Efrain Property; and violated 22 TEX. ADMIN. CODE §153.20(a)(9) by making material misrepresentations and omissions of facts in her appraisal of the San Efrain Property.
6. The Board is authorized to revoke Respondent's license. TEX. OCC. CODE ANN. §1103.518(2)(B) and 22 TAC § 153.20(a).

SIGNED October 22, 2009.


STEVEN D. ARNOLD
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS